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2  
3 UNITED STATES DISTRICT COURT  
4 WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

5 MICHAEL BURNHART,

6 Plaintiff,

7 v.

8 SCOTT HOLDER, NANCY DAVIS,  
9 GARY BOHON, and MICHAEL  
WEBBER,

10 Defendants.

No. 11-5172 BHS/KLS

**ORDER GRANTING DEFENDANTS'  
MOTION TO STAY DISCOVERY**

11 Before the Court is Defendants' motion to stay discovery pending the Court's resolution  
12 of Defendant's for summary judgment. ECF No. 28. For the reasons stated below, the Court  
13 finds that the motion should be granted.  
14

15 **BACKGROUND**

16 Plaintiff Michael Anthony Burnhart was formerly incarcerated as an inmate in the  
17 custody of the Washington Department of Corrections ("DOC"). He was released from DOC  
18 custody on November 3, 2011. ECF No. 28, Exhibit 1 (Declaration of Cherrie Kollmer),  
19 Attachment A (OMNI Legal Face Sheet). Prior to his release, Plaintiff filed this 42 U.S.C. §  
20 1983 action against Defendants stemming from the denial of Plaintiff's transfer to work release.  
21 ECF No. 10. On August 11, 2011, Plaintiff's motion for a stay of this action was granted. ECF  
22 No. 23. Mr. Burnhart served Defendants with interrogatories and requests for production on  
23 October 27, 2011. ECF No. 28, Exh. 2 (Declaration of Cassie vanRoojen). Pursuant to the  
24 Court's Order, the stay was lifted on November 7, 2011. ECF No. 23. In response to Mr.  
25 Burnhart's discovery request, Defendants mailed Plaintiff a letter notifying him that his  
26

1 discovery would be processed as if received on November 7, the day the stay was lifted. ECF  
2 No. 28, Exh. 2, Attach. A. Pursuant to Fed. R. Civ. P. 8 26(c), Defendants sought an agreement  
3 to stay discovery. *Id.*, Exh. 2, Attach. B, Email dated November 17, 2011. Plaintiff was not  
4 willing to stay discovery pending ruling on the motion for summary judgment. *Id.*, Exh. 2,  
5 Attach. C, Email dated November 17, 2011. Defendants' summary judgment motion is currently  
6 pending before the Court. ECF No. 27. Defendants argue that Plaintiff's complaint should be  
7 dismissed as moot in light of his release from DOC custody.  
8

### 9 DISCUSSION

10 The court has broad discretionary powers to control discovery. *Little v. City of Seattle*,  
11 863 F.2d 681, 685 (9<sup>th</sup> Cir. 1988). Upon showing of good cause, the court may deny or limit  
12 discovery. Fed. R. Civ. P. 26( c). A court may relieve a party of the burdens of discovery while  
13 a dispositive motion is pending. *DiMartini v. Ferrin*, 889 F.2d 922 (9<sup>th</sup> Cir. 1989), amended at  
14 906 F.2d 465 (9<sup>th</sup> Cir. 1990) *Rae v. Union Bank*, 725 F.2d 478 (9<sup>th</sup> Cir. 1984).  
15

16 The Court's determination of Defendants' motion for summary judgment will determine  
17 if, in fact, there will be a claim to resolve at trial. Therefore, the parties should be relieved of the  
18 financial burdens of discovery while this motion is pending. Accordingly, it is **ORDERED that**  
19 all discovery in this matter shall be **STAYED** pending further order of this Court.  
20

21 **DATED** this 4th day of January, 2012.

22   
23 Karen L. Strombom  
24 United States Magistrate Judge  
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